

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION

TODD JANSON, et al.,)	
)	
)	
Plaintiffs,)	
)	
v.)	Case No. 2:10-cv-04018-NKL
)	
LEGALZOOM.COM, INC.)	
)	
)	
Defendant.)	

**PLAINTIFFS’ OBJECTIONS TO DEFENDANT’S PROPOSED
DEPOSITION DESIGNATIONS AND PLAINTIFFS’ COUNTER
DESIGNATIONS**

Pursuant to the Court’s scheduling and jury-trial order dated March 11, 2010, ¶ O.2, (Doc. 22), Plaintiffs submit their objections to Defendant’s deposition designations and their counter designations.

I. Objections to Defendant’s Deposition Designations

Todd Janson	
Defendant’s Designated Testimony	Plaintiffs’ Objections
12:5–13:7	Relevance and Rule 403.
17:3–18:14	Relevance and Rule 403.
27:20–25	Relevance, Rule 403, and motion in limine regarding disclaimer
36:8–38:16	Relevance, Rule 403, and motion in limine regarding legal forms
43:9–20	Relevance, Rule 403, and motion in limine regarding legal forms
47:15–20	Relevance, Rule 403, and motion in limine regarding disclaimer
49:6–24	Relevance, Rule 403, and motion in limine regarding attorney-client relationship with Plaintiffs’ counsel
55:11–57:7	Relevance, Rule 403, and motion in limine regarding disclaimer
60:4–61:11	Relevance, Rule 403, and motion in limine regarding disclaimer

Gerald T. Ardrey	
Defendant's Designated Testimony	Plaintiffs' Objections
6:18–7:24	Relevance.
10:13–11:24	Relevance.
12:12–15	Relevance.
23:8–24:18	Relevance.
25:5–25	Relevance.
26:6–27:6	Relevance.
29:11–31:15	Relevance.
34:13–18	Relevance.
35:5–36:13	Relevance.
38:5–22	Relevance.
39:4–6	Relevance.
39:13–43:4	Relevance.
44:23–45:2	Rule 106. If the cited testimony is offered, in addition, the testimony from 43:21–45:9 should be offered. But Plaintiffs further object to reading any of this evidence based on relevance.
45:10–11, 14–17, 19–20	Relevance.
46:17–20	Relevance.
51:21–52:10	Legal conclusion, which objection is reflected in the transcript.
52:13–16	Legal conclusion, which objection is reflected in the transcript.
52:22–23	Legal conclusion, which objection is reflected in the transcript.
53:1–3, 6–8, 11–14	Legal conclusion, which objection is reflected in the transcript.
61:22–62:18	Relevance.
65:14–67:23	Objection. Ardrey's testimony regarding his conviction for passing a bad check in 2002 is not admissible. First, there is no testimony that Ardrey was actually convicted. Even if there were testimony that Ardrey was convicted, the testimony is not relevant under Rule 609 because the probative value of admitting this evidence outweighs its prejudicial effect. The same is true for Ardrey's conviction for failure to pay child support in 2006 or 2007. Furthermore, while Ardrey is a witness, this is not a case where his testimony is in doubt. LegalZoom is not offering evidence that contradicts any of Ardrey's testimony. There are not fact questions that surround Ardrey's experience with LegalZoom. Therefore, this is not a case where Ardrey's credibility is at issue.

Chad M. Ferrell	
Defendant's Designated Testimony	Plaintiffs' Objections
12:20–15:6	Relevance.
17:11–18:5	Relevance.
20:10–21:5	Relevance.
24:8–13	Relevance.
25:18–20	Relevance.
23:1–19	Relevance.
24:14–23	Relevance.

Richard F. Waigand	
<p>Plaintiffs object to the use of any of Mr. Waigand's deposition pursuant to Federal Rule of Civil Procedure 32(a), as he is not an a party to the case and is not an "unavailable" witness under Rule 32(a)(4)(A) – (E). While he resides in St. Louis, County, which is outside the judicial district, he will appear live at trial and testify. Subject to this general objection, Plaintiffs make the following specific objections.</p>	
Defendant's Designated Testimony	Plaintiffs' Objections
21:21–22:18	Relevance.
58:21–59:5	Relevance.
59:8–9	Relevance.
94:14–96:8	Relevance.
96:23–97:2	Relevance.
97:4–7	Relevance.
98:22–99:1	Relevance.
99:9–11	Relevance.
103:22–104:11	Relevance.
104:14–22	Relevance.
104:24–105:1	Relevance.
105:3–5, 7–8	Relevance.
105:17–107:17	Relevance.
110:17–21	Relevance.
113:21–114:16	Relevance.
118:4–119:6	Relevance.
120:1–20	Relevance.

John Smallwood

Plaintiffs object to the use of any of Mr. Smallwood’s deposition at trial pursuant to Federal Rule of Civil Procedure 32(a). Mr. Smallwood is not a party to this case and is not an “unavailable” witness under Rule 32(a)(4). He resides in Jefferson City, Missouri, where the trial will take place, and does not otherwise qualify as being “unavailable” under Rule 32(a)(4)(A) – (E). Mr. Smallwood is available to testify at the trial. *See*, Smallwood Depo. 7:16-22 and 104:25-105:2. Subject to this general objection, Plaintiffs also make the following specific objections to the designations of Mr. Smallwood’s deposition.

Defendant’s Designated Testimony	Plaintiffs’ Objections
27:7-8	Relevance and argumentative question.
27:9-28:22	Hearsay as to the testimony regarding Mr. Smallwood’s Declaration executed and filed in Plaintiffs’ opposition to Defendant’s Motion for Summary Judgment.
29:16-18	Vague and ambiguous; counsel’s question was not responded to by the witness.
35:3-12	Hearsay as to the testimony regarding Mr. Smallwood’s Declaration executed and filed in Plaintiffs’ opposition to Defendant’s Motion for Summary Judgment.
36:14-38:18	Hearsay as to the testimony regarding Mr. Smallwood’s Declaration executed and filed in Plaintiffs’ opposition to Defendant’s Motion for Summary Judgment.
38:19-39:2	Calls for speculation.
40:3-41:3	Lacks foundation; subject of Motion in Limine regarding failure to timely disclose documents.
49:9-50:21	Relevance and Rule 403; also subject of Motion in Limine regarding disclaimers.
50:25-54:18	Foundation, relevance and Rule 403; also subject of Motion in Limine regarding disclaimers and/or terms of service.
54:19-56:6	Foundation.
56:7-69:7	Foundation; Subject of Motion in Limine regarding failure to timely disclose documents.
70:5-78:14	Foundation; Subject of Motion in Limine regarding failure to timely disclose documents.
79:10 – 80:3	Foundation.
80:4 – 85:17	Foundation; Subject of Motion in Limine regarding failure to timely disclose documents.
86:18 – 90:5	Foundation; Subject of Motion in Limine regarding failure to timely disclose documents.
90:6-11	Foundation – question not answered by witness.
90:17-23	Foundation; Subject of Motion in Limine regarding failure to timely disclose documents.
91:19-92:6	Foundation.
92:7-16	Foundation; Subject of Motion in Limine regarding failure to timely

	disclose documents.
92:24-93:7	Foundation; Subject of Motion in Limine regarding failure to timely disclose documents.
93:24-94:10	Foundation; Subject of Motion in Limine regarding failure to timely disclose documents.
95:7-100:4	Foundation; improper hypothetical; calls for expert opinion for which this witness was not disclosed as an expert by either party.
100:9-13	Hearsay as to the references to Declaration
103:8-104:7	Relevance; Rule 403
104:21-105:2	Relevance; Rule 403
108:13-108:23	Foundation; calls for speculation; calls for expert opinion for which this witness was not disclosed as an expert by either party.

II. Plaintiffs' Counter Designations

Gerald T. Adrey

5:8–10
7:25–8:12
9:3–20
13:7–18
13:24–14:4
29:11–29:23
32:21–34:12
36:14–37:4
39:13–40:5
41:14–41:15
44:3–44:16
47:7–49:21
56:3–56:17
57:14–58:11
63:12–65:4

Chad M. Ferrell

5:15–18
6:1–7:11
8:12–8:20
9:18–22
16:7–16:18
20:10–20:23
26:25–27:11
28:2–28:10
28:11–13

Edward D. Robertson, Jr., # 27183
Mary Doerhoff Winter, # 38328
BARTIMUS, FRICKLETON, ROBERTSON
& GORNY
715 Swifts Highway
Jefferson City, MO 65109
Telephone: 573-659-4454
Facsimile: 573 659-4460
chiprob@earthlink.net
marywinter@earthlink.net

Randall O. Barnes, #39884
RANDALL O. BARNES & ASSOCIATES
219 East Dunklin Street, Suite A
Jefferson City, Missouri 65101
Telephone: 573-634-8884
Facsimile: 573-635-6291
rbarnesjclaw@aol.com

David T. Butsch, # 37539
James J. Simeri, #52506
BUTSCH SIMERI FIELDS LLC
231 S. Bemiston Ave., Ste. 260
Clayton, MO 63105
Telephone: 314-863-5700
Facsimile: 314-863-5711
butsch@bsflawfirm.com
simeri@bsflawfirm.com

Steven E. Dyer, #45397
LAW OFFICES OF STEVEN DYER
10850 Sunset Office Drive, Ste. 300
St. Louis, MO 63127
Telephone: 314-898-6715
jdcpamba@gmail.com

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I certify that on July 29, 2011, I served this document upon the following via this Court's ECF system:

Party	Counsel
Defendant LegalZoom.com, Inc.	Robert M. Thompson James T. Wicks BRYAN CAVE LLP One Kansas City Place 1200 Main Street, Ste. 3500 Kansas City, MO 64105 816.374.3200, 816.374.3300 (fax) John Michael Clear Michael Biggers James Wyrsh BRYAN CAVE LLP One Metropolitan Square – Ste. 3600 211 N. Broadway St. Louis, MO 63102 314.250.2000, 314.259.2020 (fax)

_____/s/Matthew A. Clement